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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION

LET THEM BREATHE; REOPEN
CALIFORNIA SCHOOLS,

Plaintiffs,

v.

GAVIN NEWSOM, in his official
capacity as Governor of the State of
California et al.,

Defendants.

Case No. 37-2021-00031385-CU-WM-NC

**SUPPLEMENTAL DECLARATION OF
JEANNE NOBLE, M.D.**

IMAGED FILE

Department: N-27
Judge: Hon. Cynthia A. Freeland
Date: November 8, 2021
Time: 1:30 p.m.

Action filed: July 22, 2021
Trial date: None set

I, Dr. Jeanne Noble, declare:

1. I am of legal age and am competent to make this declaration. I am a California resident. I have volunteered to testify as an expert witness in support of Plaintiffs' *ex parte* application for a temporary restraining order and for an order requiring Defendants to show cause why a preliminary injunction should not issue pending trial.

2. This declaration is a supplement to the Declaration of Jeanne Noble, M.D. as filed on September 28, 2021 as part of the Plaintiffs' Ex Parte Application for a Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not issue Pending Trial.

All opinions and testimony in my prior Declaration remain my opinions and this addendum is

1 meant to supplement the prior Declaration.

2 3. I have personal knowledge of the facts stated herein, except where stated upon
3 information and belief, and as to those facts, I believe them to be true.

4 4. I have read the Primary and Supplemental Declarations of Dean A. Blumberg,
5 M.D., Dan M. Cooper, M.D., James Watt, M.D. and Robert Schooley, M.D. filed in support of
6 Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction.

7 5. My primary concern with Defendants' briefing and declarations is the reliance on
8 low quality, easily contradicted data utilized to support continued and indefinite masking on
9 children in school. After 20 months, no randomized control trials (the gold standard for
10 evaluating clinical interventions) have been completed on masking children, let alone in a school
11 setting. At the beginning of the pandemic, implementing policies unsupported by data in an
12 attempt to keep children safe was understandable; in November of 2021, it is inexcusable.

13 6. Dr. Blumberg's Primary Declaration states that universal masking of children is
14 "consistent with the recommendations of the World Health Organization (WHO) and the United
15 Nations Children's Fund (UNICEF), advising that countries may adopt mitigation measures based
16 on each country's circumstances," but this is incorrect. The WHO/UNICEF, the European CDC
17 and numerous European countries do not recommend masking most children in school, and many
18 countries never masked children.¹ Even in the U.S., 33 states either do not mandate masks or
19 outright prohibit the mandating of masks.²

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21 ¹ *Advice on the use of masks for children in the community in the context of COVID-19*,
22 World Health Organization/UNICEF, August 21, 2020.
23 https://apps.who.int/iris/bitstream/handle/10665/333919/WHO-2019-nCoV-IPC_Masks-Children-2020.1-eng.pdf ("Based on the expert opinion gathered through online meetings and
24 consultative processes, children aged up to five years should not wear masks for source control...
25 For children between six and 11 years of age, a risk-based approach should be applied to the
26 decision to use of a mask"); *Questions and answers on COVID-19: Children aged 1-18 years and
27 the role of school settings*, European Centre for Disease Prevention and Control,
28 <https://www.ecdc.europa.eu/en/covid-19/questions-answers/questions-answers-school-transmission> (accessed October 31, 2021) ("In primary schools, the use of face masks is
recommended for teachers and other adults when physical distancing cannot be guaranteed, but it
is not recommended for students."); *Open Schools, Covid-19, and Child and Teacher Morbidity
in Sweden*, N Engl J Med 2021; 384:669-671; DOI: 10.1056/NEJMc2026670 ("Social distancing
was encouraged in Sweden, but wearing face masks was not.").

² Burbio School Mask Policy Tracker, <https://about.burbio.com/school-mask-policies-by->

1 7. The only nominally-relevant randomized control trial of masking conducted by
2 Yale University of 340,000 people in communities in Bangladesh – cited by Dr. Watt to show
3 “the efficacy of mask use in reducing the spread of COVID-19” – actually showed that surgical
4 masks were only moderately effective in people over 50, and that cloth masks (which the majority
5 of students wear in classrooms) were ineffective altogether.³ Yet Defendants’ policies on the type
6 of masks to use in schools or any other public setting has not changed.

7 8. The studies cited by Defendants’ and in their declarations refer to numerous
8 studies published by the CDC which were not randomized control trials or which failed to parse
9 out the effects of numerous mitigation strategies, and thus suffered from serious flaws. For
10 example, Dr. Watt’s Declaration cites to studies of schools from North Carolina and California to
11 prove that layered prevention strategies work, but since all of the schools in these studies required
12 masks along with other mitigation strategies like hand washing, symptom screening and social
13 distancing, the effects of masking cannot be parsed from the effects of the other strategies.⁴

14 9. The recent CDC study of Arizona schools in Maricopa and Pima counties
15 concluded that schools without mask mandates were more likely to have COVID-19 outbreaks
16 than schools with mask mandates.⁵ Yet, >90% of schools in the “no mask mandate” group were
17 in Maricopa County, which has significantly lower vaccination rates than Pima County. This
18 study had numerous other statistical issues.⁶

19 10. A third CDC study referenced by Dr. Watt found that US counties without mask
20 [state/](#) (accessed October 31, 2021).

21
22 ³ Abaluck et al., *The Impact of Community Masking on COVID-19: A Cluster-*
23 *Randomized Trial in Bangladesh* (Aug. 31, 2021) Yale University’s Cowles Foundation for
Research in Economics. Defendant Exhibit 81; Declaration of James Watt, M.D., M.P.H., ¶ 41.

24 ⁴ Watt Decl., ¶ 35-36.

25 ⁵ Jehn et al., *Association Between K–12 School Mask Policies and School-Associated*
26 *COVID-19 Outbreaks — Maricopa and Pima Counties, Arizona, July–August 2021* (Sept. 24,
2021) 70 MMWR 39. Defendant Exhibit 85; Watt Decl. ¶ 41.

27 ⁶ Prasad, Vinay. *Two New CDC Studies on Masking in School: Do they prove causality?*,
28 Substack.com, September 25, 2021. <https://vinayprasadmmdmph.substack.com/p/two-new-cdc-studies-on-masking-in>.

1 mandates saw larger increases in pediatric COVID cases after schools opened,⁷ but again did not
2 control for important differences in vaccination rates. Dr. Watt notes that the CDC study in
3 Georgia “found that ‘COVID-19 incidence was 37% lower in schools that required *teachers and*
4 *staff members* to use masks’” (emphasis added), but Dr. Watt failed to mention that the study also
5 found that masking students did not have a statistically significant effect.⁸

6 11. In sum, these studies fall far short of providing convincing evidence that mask
7 mandates prevent in-school COVID transmission.

8 12. There is similar observational data that contradicts these studies. A study from
9 Brown University, analyzing 2020-21 data from schools in New York, Massachusetts, and
10 Florida, found no correlation between student cases and mask mandates, but did see decreased
11 cases associated with teacher vaccination.⁹

12 13. Adjusting for vaccination rates in the surrounding community is vitally important
13 when looking at case rates. Comparisons of counties in California that do and do not have mask
14 mandates show that vaccination rates, not masking, keep hospitalizations down.¹⁰ Neighboring
15 Los Angeles and Orange County counties, with similar vaccination rates but differing masking
16 requirements, had similar case and hospitalization outcomes.¹¹

17 14. Dr. Blumberg questions the factual assertions in my original declaration that “the
18 risk of an asymptomatic person transmitting infection to a close contact is around 0.7%” and
19

20 ⁷ Budzyn et al., *Pediatric COVID-19 Cases in Counties with and Without School Mask*
21 *Requirements — United States, July 1–September 4, 2021* (Sept. 24, 2021) 70 MMWR 39.
Defendants Exhibit 86; Watt Decl. ¶42.

22 ⁸ Gettings et al., *Mask Use and Ventilation Improvements to Reduce COVID-19 Incidence*
23 *in Elementary Schools — Georgia, November 16–December 11, 2020* (May 21, 2021) 70
MMWR 21, at p. 779. Defendant Exhibit 87; Watt Decl. ¶42.

24 ⁹ Oster et al., *COVID-19 Mitigation Practices and COVID-19 Rates in Schools: Report on*
25 *Data from Florida, New York and Massachusetts*, Pre-Print. May 21, 2021.
<https://www.medrxiv.org/content/10.1101/2021.05.19.21257467v1>

26 ¹⁰ Ting, Eric. *Were California county mask mandates effective against delta? Here's what*
27 *the data says*. SFGate, October 4, 2021. [https://www.sfgate.com/coronavirus/article/California-](https://www.sfgate.com/coronavirus/article/California-mask-mandates-delta-COVID-19-data-works-16502191.php)
[mask-mandates-delta-COVID-19-data-works-16502191.php](https://www.sfgate.com/coronavirus/article/California-mask-mandates-delta-COVID-19-data-works-16502191.php).

28 ¹¹ *Id.*

1 suggests that the setting or time-period in which the close contact is around an asymptomatic
2 person would increase the rate of transmission. In fact, the 0.7% rate of asymptomatic
3 transmission was determined from a systematic review of 77,758 participants based on household
4 transmission, where exposure takes place over long periods of time.¹²

5 15. My secondary concern after reading Defendants' briefing and declarations is the
6 failure to contemplate any scientific rationale for maintaining masks now that all school children
7 from ages 5-18 will have the opportunity to get vaccinated. Defendants announced on October 20,
8 2021 that masks will continue to be required indefinitely, without any evaluation of any metric
9 relating to case rates, vaccination rates or hospitalizations.¹³

10 16. Defendants' position to continue the mask requirement indefinitely contradicts the
11 position of its experts. Dr. Schooley's Declaration concludes that "as vaccines become available
12 to younger children, the mandates and recommendations will change accordingly," but as noted
13 above, Defendants have no plans to change any mandates or recommendations in spite of the
14 likelihood of vaccination being made eligible to all school children by the first week of November
15 2021.¹⁴

16 17. Once children are vaccinated, their risk will fall from tiny to infinitesimal. By
17 continuing to continue to mandate masks on vaccinated children – particularly when those same
18 children will not be required to wear masks in almost any other setting in the state – Defendants
19 risk seriously eroding public trust in health officials and institutions.

20 18. Over the past twenty months, slowly and with much resistance, the layers of
21

22 ¹² Madewell ZJ, Yang Y, Longini IM, Halloran ME, Dean NE. Household Transmission
23 of SARS-CoV-2: A Systematic Review and Meta-analysis. JAMA Netw Open.
2020;3(12):e2031756. doi:10.1001/jamanetworkopen.2020.31756.

24 ¹³ Reaffirming California's Approach to COVID-19 Prevention and Containment in
25 Schools by Continuing Masking Requirements, October 20, 2021. Press Release Number NR21-
307. <https://www.cdph.ca.gov/Programs/OPA/Pages/NR21-307.aspx>

26 ¹⁴ Berkeley Lovelace Jr., *FDA authorizes Pfizer's Covid vaccine for kids ages 5 to 11,*
27 *shots could begin early next week with CDC clearance*, October 29, 2021.
28 <https://www.cnn.com/2021/10/29/pfizer-covid-vaccine-fda-authorizes-for-kids-ages-5-to-11.html>

1 mythology around COVID-19 mitigation in schools have been peeled away, each time without
2 producing the much-ballyhooed increases in COVID-19. Schools did not become hotspots when
3 they opened, nor when they reduced physical distancing, nor when they eliminated deep cleaning
4 protocols; cases and hospitalizations have continued to fall at the same time that many states
5 abandoned school quarantine protocols. These layers of mitigation were peeled away because the
6 evidence supporting them was weak, and they all had substantial downsides for children.

7 19. Masking is the last, and most stubborn layer, possibly because the downsides are
8 more subtle and difficult to measure. But the facts remain: downsides exist, and the evidence of
9 benefit from continued masking of any children, let alone vaccinated children, does not.

10
11 I declare the foregoing to be true and correct under penalty of perjury under the laws of
12 the State of California this 1st day of November, 2021, at San Francisco, California.

13 *Jeanne A. Noble*

14 Jeanne A. Noble (Nov 1, 2021 14:41 PDT)

15 JEANNE NOBLE, M.D.
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